

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

DAVID ELLIS, Successor Plan
Administrator and Successor Plan
Trustee for the Rycenga Homes, Inc.
Profit Sharing 401(k) Plan, et al.,

and

THE HANOVER INSURANCE COMPANY,

Plaintiffs and Counter-
Defendants,

v.

Case No. 1:04CV0694
Hon. Joseph G. Scoville

RYCENGA HOMES, INC., et al,

Defendants

and

EDWARD D. JONES & CO., L.P.

Defendant and Counter-
Plaintiff.

**ORDER REGARDING DEFENDANT EDWARD D. JONES & CO., L.P.'S
MOTION FOR DISCHARGE, INJUNCTION AND DISMISSAL**

This matter came before the Court on Defendant/Counter Plaintiff Edward D. Jones & Co., L.P.'s ("Edward Jones") Motion for Discharge, Injunction, and Dismissal. The Court finds that

A. Edward Jones has deposited the \$360,000 settlement payment with the registry of the Court, which is presently being held in an interest bearing account pursuant to the Court's May 9, 2007 Order for Interpleader;

B. According to proofs of service on file, Counter-Defendant The Hanover Insurance Company ("Hanover") was served with process, including the Counterclaim for Interpleader, a

summons, and Edward Jones' Motion for Discharge, Injunction and Dismissal and Brief in Support was served upon the designated resident agent of Hanover on May 15, 2007;

C. On May 22, 2007, Hanover's counsel in this matter, Scott Schmookler, was also served with Edward Jones' Counterclaim for Interpleader, the summons, Motion for Discharge, Injunction and Dismissal, Brief in Support and a copy of the Court's Notice of Hearing;

D. Hanover did not file an answer or other responsive pleading to the Counterclaim for Interpleader on or before June 4, 2007;

E. Edward Jones therefore filed an Application for Default against Hanover on June 5, 2007.

F. Neither Hanover nor its counsel filed any response to Edward Jones' Motion for Discharge, Injunction and Brief, and did not appear for the hearing on that motion at 10:00 AM on June 6, 2007.

Oral argument having been held on June 6, 2007; and the Court being otherwise advised;

IT IS ORDERED, that Edward Jones' Motion for Discharge, Injunction, and Dismissal is ***granted*** for the reasons stated on the record.

IT IS FURTHER ORDERED, that Edward Jones is dismissed from this action with prejudice and without costs, and is hereby released and discharged from all liability to Plaintiffs/Counter-Defendants David Ellis ("Ellis"), the Rycenga Homes, Inc. Profit Sharing 401(k) Plan (the "Plan") and the Hanover Insurance Company ("Hanover") in this case.

IT IS FURTHER ORDERED, that this Court's Opinion and Partial Summary Judgment, both issued on March 15, 2007, are vacated.

IT IS FURTHER ORDERED, that Plaintiffs and Counter Defendants David Ellis ("Ellis"), the Rycenga Homes, Inc. Profit Sharing 401(k) Plan ("the Plan") and The Hanover

Insurance Company ("Hanover") are enjoined from commencing, in any forum, any action against Edward Jones in which Ellis, the Plan and Hanover, or any of them, in any manner, seek to recover any portion of the \$360,000 deposited by Edward Jones with the Clerk, or to recover from Edward Jones any damages or costs of any kind relating to the Plan or any Fidelity Bond Policies issued by Hanover to the Plan.

IT IS FURTHER ORDERED, that the \$360,000 deposited by Edward Jones with the Clerk shall be held by the Clerk of this Court pending further Order of this Court.

/s/ Joseph G. Scoville
Hon. Joseph G. Scoville
United States Magistrate Judge

Dated: June 8, 2007

Approved as to form and substance:

Stephen D. Turner /s/ with permission
Attorney for Plaintiffs and Counter-Defendants
Ellis and Rycenga Homes, Inc. Profit Sharing
401(k) Plan

Miles T. Macik
Attorney for Defendant and Counter-Plaintiff
Edward D. Jones & Co., L.P.